



## Report on Public Policy Position

**Name of Section:**

Judicial Conference

**Contact Person:**

Judge Milton Mack

**Email:**

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**Bill Number:**

HB 4339

**Date position was adopted:**

March 11, 2005

**Process used to take the ideological position:**

Proposed bill was e-mailed for comment to all Probate Judges. The bill was then discussed at the regular meeting of the Executive Committee of the Judicial Conference.

**Number of members in the decision-making body:**

27

**Number who voted in favor and opposed to the position:**

15 yes

0 no

**FOR SECTIONS ONLY:**

- ✓ This subject matter of this position is within the jurisdiction of the section.
- ✓ The position was adopted in accordance with the Section's bylaws.
- ✓ The requirements of SBM Bylaw Article VIII have been satisfied.

*If the boxes above are checked, SBM will notify the Section when this notice is received, at which time the Section may advocate the position.*

**Position:**

The Executive Committee of the Judicial Conference recommends that the State Bar oppose HB 4339.

**The text (may be provided by hyperlink) of any legislation, court rule, or administrative regulation that is the subject of or referenced in this report:**

<http://www.legislature.mi.gov/mileg.asp?page=getObject&objName=2005-HB-4339>

**RECOMMEND STATE BAR ACTION ON THIS ISSUE:**

**Arguments for the position:**

The bill would unnecessarily limit judicial discretion. The imposition of the sanction will often occur too far in the future, i.e. after probation ends. Many judges already impose license sanctions but they are contemporaneous with the disposition. The effectiveness of consequences is best when flexible discretion is used. In rural areas, the ability to drive is required in order to attend school, community service and part time jobs to pay restitution.

**Arguments against the position (if any):**

None reported.

**If the State Bar currently has a position on this subject matter, state the position, and an analysis of whether the recommended position and the current State Bar position are in conflict.**

As of March 22, 2005, the State Bar of Michigan opposes in principle HB 4339.

**Fiscal implications of the recommended policy to the State Bar of Michigan:**

None.

**FOR LEGISLATIVE ISSUES ONLY:**

**This position falls within the following Keller-permissible category:**

- The regulation and discipline of attorneys
- ✓ The improvement of the functioning of the courts
- The availability of legal services to society
- The regulation of attorney trust accounts
- The regulation of the legal profession, including the education, the ethics, the competency, and the integrity of the profession.

**Keller- permissible explanation:**

The bill would adversely affect the functioning of the courts as it relates to the handling of juvenile matters.